**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

GEC-001-2US

First named inventor: GREGORY E. CONNERApplication No.: 10/771,057Art Unit: 1616Filed: FEBRUARY 3, 2004Examiner: ALSTRUM-ACEVEDO,
J.H.Title: NOVEL METHODS AND DEVICES
FOR TREATING LUNG DYSFUNCTION

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of RESPONSE TO OFFICE ACTION (identify type of reply):

- ☐ has been filed previously on NOVEMBER 21, 2006
☒ is enclosed herewith.

10/15/2007 EAREGAY1 03022344 10771037

B. The issue fee and publication fee (if applicable) of \$ 6170.00

- ☐ has been paid previously on _____
☐ is enclosed herewith.

770.00 IP

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Edwin Ching
Signature

October 9, 2007
Date

EDWIN P. CHING

Typed or printed name

34,090

Registration Number, if applicable

4248 JEFFERSON AVENUE

Address

916-955-6241

Telephone Number

WOODSIDE, CALIFORNIA 94062

Address

Enclosures: ☒ Fee Payment (CHECK)

☒ Reply PETITION SHEETS AND ATTACHED RESPONSE TO OFFICE ACTION

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay (PETITION SHEETS)

☒ Other: TRANSMITTAL FORM; FEE TRANSMITTAL; CHECK; RETURN POSTCARD

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

OCTOBER 9, 2007
Date

Edwin Ching
Signature

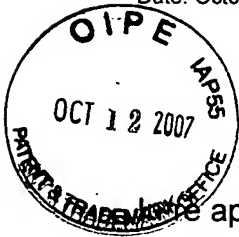
EDWIN CHING
Typed or printed name of person signing certificate

I hereby certify that, on the date shown below, this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571)273-8300.

PATENT

Date: October 9, 2007 By: Edwin P. Ching
Edwin P. Ching

Atty. Docket No.
GEC-001-2US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

is the application of:

Gregory E. Conner

Serial No.: 10/771,057

Filed: February 3, 2004

For: NOVEL METHODS AND DEVICES
FOR TREATING LUNG
DYSFUNCTION

Examiner: Alstrum Acevedo, J.H.

Art Unit: 1616

PETITION TO REVIVE

Woodside, California 94062

October 9, 2007

Assistant Commissioner for Patents
Alexandria, Virginia 22313

Honorable Sir:

Applicant's representative respectfully petitions the Commissioner of Patents and Trademarks to revive the above-identified patent application under the provisions of 37 C.F.R. § 1.137 on the ground that the abandonment of the above-identified application was completely unintentional.

It is appreciated that the Office has determined that the application has been abandoned since about February 12, 2007. In fact, transmitted documents clearly indicate that Applicant's representative had been trying to submit a response in a timely and acceptable manner. In part, a computer hardware problem led to the need to get a new computer with the new Vista operating system, which was incompatible with available driver software allowing communication with representative's printer. This problem prevented the prepared document from being printed and signed with available equipment. The electronic version was transmitted to a different site and submitted without signature, but indicated as being substantively equivalent to the earlier submitted form. In particular, page breaks were incorporated to comply with the format needs for PAIR electronic posting. Moreover, a number of telephone calls were made

to the Office to request explanation, for confirmation of receipt, assurance that the submission was acceptable, or some indication of how to remedy any inadequacies. No reply to those inquiries was received from the Office and no assistance or explanation was provided which could have resulted in expeditious payment of extension fees before statutory deadlines had passed. Applicant and representative interpreted this lack of response, combined with posting of the document onto the electronic system, as indication that the submission was received, accepted, and acceptable.

Applicants submit a response which is believed to be fully compliant with the format requirements, but whose substance is equivalent to both earlier submissions.

Applicant also submits fees believed to be appropriate and sufficient for the revival petition.

Conclusion


Applicant petitions to revive an application which has been unintentionally abandoned, and submit what are believed to be appropriate and sufficient fees. The attached response, a reformatted version of earlier filed responses, is believed to be a complete response to all the outstanding issues of the latest Office Action and is a bona fide effort to place the application in condition for allowance.

Accordingly, Applicant respectfully requests grant of the petition to revive, and upon consideration of the response, passage of the claims to allowance at the earliest possible convenience. Should the Examiner deem the petition insufficient, Applicant respectfully requests any deficiencies explained.

Please continue to send all official written communications to the correspondence address in Florida.

Respectfully submitted,

Date: October 9, 2007 ✓



Edwin P. Ching ✓
Reg. No. 34,090
Attorney for Applicant

TEL: (916)955-6241

Attachment: reformatted response